



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER
GOVERNOR

Certified Mail: 7003 1680 0000 6167 4946

September 24, 2009

Mr. Warren Farnam, Director
Modoc County Environmental Health Department
202 West Fourth Street
Alturas, California 96101

Dear Mr. Farnam:

The California Environmental Protection Agency (Cal/EPA), Office of the State Fire Marshal, and the State Water Resources Control Board conducted a program evaluation of the Modoc County Environmental Health Department CUPA Certified Unified Program Agency (CUPA) on September 1, 2009 and September 2, 2009. The evaluation was comprised of an in-office program review and field oversight inspection by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Modoc County Environmental Health program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to Ernie Genter every 90 days after the evaluation date; the first report is due on December 1, 2009.

Cal/EPA also noted during this evaluation that Modoc County Environmental Health has worked to bring about a number of local program innovations, including significant efforts to reach out to the regulated businesses and public and efforts to provide the community with trained and equipped emergency response personnel and equipment. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

Mr. Warren Farnam, Director
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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by e-mail at jbohon@calepa.ca.gov.

Sincerely,

[Original Signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc: Sent via e-mail:

Mr. Chris Murray
Modoc County Environmental Health Department
202 West Fourth Street
Alturas, California 96101

Mr. Terry Snyder
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Ms. Jennifer Lorenzo
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Ms. Terry Brazell
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Mr. Warren Farnam, Director
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cc: Sent via e-mail:

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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: Modoc County Environmental Health

Evaluation Date: September 1 and September 2, 2009

EVALUATION TEAM

Cal/EPA: Ernie Genter and John Paine
SWRCB: Terry Snyder
OSFM: Jennifer Lorenzo

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Ernie Genter at (916) 327-9560.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	The CUPA has not certified that they have reviewed or updated the Area Plan during the past five years. The Area Plan has been consolidated into the county's multi-hazard operational plan, which was dated 2004. HSC, Section 25503(d) [CalEMA]	By September 2, 2010, the CUPA will certify to CalEMA that they have reviewed and made necessary updates to the hazardous materials portion of the county operational plan.
2	The CUPA is not implementing and enforcing the requirements of the business plan program for all handlers subject to the program. Specifically, the CUPA is neither regulating nor properly exempting agricultural handlers subject to the business plan program. The CUPA does have a policy and agreement with the agriculture department to implement the program with agricultural businesses, but it is not being fully implemented. HSC, Chapter 6.95 Section 25503.5(a) [CalEMA]	By February 2, 2010, the CUPA will submit an action plan, with projected timeline, to either regulate all farms subject to the business plan program or to properly exempt these businesses under HSC, Chapter 6.95, Section 25503.5(c)(2), (3), (4) or (5).
3	The CUPA is not adequately collecting, maintaining and reporting the number of facilities with violations on the Annual Enforcement Summary Report (Report 4). The FY 07/08 Annual Report 4 violations data has not been reported and is blank. The inspection reports reviewed included violations noted during inspections. CCR, Title 27, Section 15290(a)(3) [Cal/EPA]	By February 2, 2010, the CUPA will submit an action plan, with projected timeline, to track and report violations. The CUPA's 2009/2010 Annual Enforcement Summary Report 4 will have accurate violation information, using the new Report 4 form.

Certified Unified Program Agency (CUPA)
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4	<p>The Underground Storage Tanks (UST) plot plans did not contain all the required elements. The plot plans were missing the location(s) of where the monitoring will be performed. Examples of missing locations include the sensors for under-dispenser containments (UDCs) and monitoring panels for automatic tank gauge (ATG) and alarms.</p> <p>CCR, Title 23, Sections 2632(d)(1)(C) and 2641(h) [SWRCB]</p>	<p>Beginning September 3, 2009, UST plot plan requirements will be modified to include location of all leak detection monitoring equipment. The CUPA will request updated plot plans to be submitted by the time the UST facility is annually inspected. In addition, the CUPA will ensure that new permit application materials also contain completed plot plans. By September 3, 2010, the CUPA will ensure that all UST plot plans contain all the required elements.</p>
5	<p>The CUPA's UST facility files reviewed did not contain UST response plans or they did not have all the required information.</p> <p>CCR, Title 23, Section 2632(d), 2634 [SWRCB]</p>	<p>The CUPA will request UST response plans to be submitted during the annual inspections from the UST owner/operators as necessary.</p> <p>By September 3, 2010 all UST facility files will contain response plans.</p>
6	<p>The CUPA does not report SOC criteria on its Semi-annual Report 6. The CUPA inspector has not been trained or made aware of the need to report Significant Operational Compliance (SOC) violations after the routine inspection of the facility and on Report 6.</p> <p>CCR, Title 23, Sections 2713(c)(4) [SWRCB] CCR, Title 27, Sections 15290(b)</p>	<p>Before the next routine inspection of an UST facility, the UST inspectors will review and study the SOC Matrices for California which include the Release Detection Matrix and Release Prevention Matrix. The CUPA can also review the SOC Training PowerPoint presentation and annual compliance inspection documents developed by the State Water Resources Control Board (SWRCB). Additionally, the SWRCB is available to conduct training and assist with identifying SOC criteria on the CUPA's Compliance Inspection Checklist.</p>

CUPA Representative _____

(Print Name)

(Signature)

Evaluation Team Leader _____

(Print Name)

(Signature)

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.

1. **Observation:** The CUPA's Inspection and Enforcement (I&E) Program Plan contains outdated or inconsistent information, such as enforcement options, numbers of regulated businesses, and the Aboveground Petroleum Storage Act (APSA) program information.

Recommendation: During the next review of the I&E Plan, update the necessary sections related to the APSA program. Also correct enforcement options section, facility numbers, and any other necessary updates. Document the I&E Plan annual reviews in the CUPA's self-audits.

2. **Observation:** Although the CUPA was tracking return to compliance for violations at UST facilities, return to compliance was not evident for violations found at some other program element facilities. The CUPA has adopted a new return to compliance certification form and has developed an electronic tracking system for tracking return to compliance that is linked to Microsoft Outlook system. This allows the CUPA to stay on top of return to compliance for all businesses.

Recommendation: Ensure that the new form and system are applied to all violations that occur in all Unified Program elements.

3. **Observation:** The CUPA's self-audit report indicates that records are maintained for 8 years and then shredded and burned. The Record Retention Policy indicates that records are maintained for 3 years and then shredded and burned.

Recommendation: Cal/EPA recommends that the CUPA update their policy to reflect the 8 year noted in their self-audit, or at a minimum the 5 years mandated under the Unified Program.

4. **Observation:** On the Annual Inspection Summary Report 3 the CUPA does not report re-inspections, oversight of testing like secondary containment, and follow-up compliance inspections as Other Inspections in Column 5.

Recommendation: Cal/EPA strongly recommends that the CUPA report all inspections that are not Routine Inspections under Other Inspections in Column 5 of Report 3, this will indicate that CUPA's inspection and compliance program is robust with more inspections than the required compliance inspections. Also the CUPA's reporting will show that they can initiate enforcement when follow-up inspections find continuing or recalcitrant violations.

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- 5. Observation:** The CUPA's Underground Storage Tank facility files contain complete Monitoring Plans on the new forms that the CUPA adopted as the CUPA's forms. They appear to be approved due to the amount of detail and the procedure used by the CUPA inspector as observed during the SWRCB oversight inspection in reviewing the Monitoring Plan with the owner/operator. Monitoring Plans are required to be approved and signed by the CUPA. The new forms, approved by regulation, have fields for the CUPA's signature and indicate that the plan has been approved.

Recommendation: The SWRCB recommends that the CUPA include the plan approved fields, shown on the new forms, on the CUPA's own adapted Monitoring Plan forms and then sign them after reviewing the plans for completeness to indicate approval.

- 6. Observation:** The CUPA's "Hazardous Materials Inspection Report" does not indicate whether or not the facility is in violation of state laws and regulations. However, a space is provided next to each item on the report to note observations; a few of the observations noted were unclear if the facility was in violation or in compliance. The inspection report also does not distinguish among Class I, Class II, and minor violations.

Recommendation: Cal/EPA and OSFM recommends that the CUPA modify its inspection report so that it denotes whether the facility is in compliance, in violation or is not applicable (such as the UST inspection report). Also, the CUPA is encouraged to provide a means to classify each violation to distinguish between enforcement modes for Class I, Class II and minor violations. Classification of the violations will assist in reporting information on the Annual Enforcement Summary Report 4.

- 7. Observation:** A few of the hazardous materials inventory statements reviewed (such as the Citizens Telecommunications facilities) stated the following under the fire code hazard class section: "minimal hazard," "moderate hazard," or "high hazard."

Recommendation: OSFM recommends that the CUPA communicate and coordinate with its fire chiefs to determine if the fire code hazard classes should be requested from hazardous materials facilities and if so, then determine the system to be used (for example, National Fire Protection Association [NFPA] 704).

Certified Unified Program Agency (CUPA)
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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The CUPA has made continuous improvement in the UST program element. They have hired another CUPA inspector who is in training for ICC certification. They have made it a priority to make the CUPA policies current with electronic document storage and using all the newest forms which are posted on the CUPA's website. The CUPA has developed a Compliance Inspection Checklist with Notice of Violations Summary and a Return to Compliance form to leave with the owner/operator to self-certify coming back into compliance. The CUPA UST permit is complete, including all required elements, and describes the monitoring in place at each facility. The CUPA's UST files are highly organized with sections for each type of activity document generated for an UST facility (e.g. permits, inspections, certifications, and correspondence etc). The files are filed chronologically and it is easy to find documents in the files.
2. Modoc County CUPA has made significant efforts to reach out to their regulated businesses and public. They recently created a Web site for the public and regulated community, which includes an overview of the CUPA, most recent Unified Program Consolidated Forms (UPCF), fee schedule, and links to pertinent sites. Summary of program elements are posted for the following programs: hazardous materials business plan (HMBP), UST, aboveground storage tank/Spill Prevention Control and Countermeasure (AST/SPCC), California Accidental Release Prevention (CalARP), and the California Fire Code Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS). The CUPA is still in the process of developing its page on the hazardous waste generator program. In addition, the CUPA has developed a complaint form and recently distributed a pamphlet on handling universal waste.
3. In addition to implementing the Unified Program, Modoc County Environmental Health Department wears many hats, including providing many other local public health services for the county, such as food sanitation, vector control, water well and water system oversight, sewage disposal, medical waste, solid waste, land use, tattoos and body piercing, recreational pools and spas, general housing, organized camps, and emergency preparedness and response. All duties are handled by the director and two part time staff members (one of whom is in the office two times a week). An administrative office assistant is available at the public counter for the building occupants during business hours; the building includes several other county departments. The second part-time staffer, who was recently hired in the fall of 2008 to assist the Modoc County Environmental Health Department, has proven to be a tremendous asset to the CUPA and the Unified Program. The CUPA is also converting a recently acquired vehicle into a hazardous materials emergency response vehicle. The CUPA director is a CSTI Certified Hazardous Material Specialist and a Certified Instructor for local emergency responders.
4. Modoc County CUPA maintains a commendable inspection program. The CUPA conducts a majority of its routine compliance inspections as "combined" inspections. The CUPA has met its annual UST inspections within the last three fiscal years. The CUPA has also met or exceeded the triennial inspection frequency for its business plan and hazardous waste generator facilities. (Note: The CUPA has no tiered permit or CalARP facilities.)